

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 114 of 2005 (S/B)

Sharad Kumar Jain,
S/o Sri Jiya Lal Jain,
R/o H-30 Shivalik Nagar,
BHEL Ranipur, Haridwar.

..... Petitioner

Versus

1. Uttaranchal Pey Jal Nigam,
through its Managing Director,
Dehradun, Uttaranchal.
2. The Managing Director,
Uttaranchal Sansadhan Vikas and Nirman Nigam,
Dehradun, Uttaranchal.
3. U.P. Jal Nigam,
through its Managing Director,
6 Rana Pratap Marg,
Lucknow.

..... Respondents

Mr. M.C. Pant, Advocate for the petitioner.

Mr. D.S. Patni, Advocate for respondents No. 1 and 2.

JUDGEMENT

Coram: Hon. Rajeev Gupta, C.J.

Hon. P.C. Verma, J.

P.C. VERMA, J. (Oral)

1. This writ petition has been filed by the petitioner seeking a writ of mandamus to command the respondents to absorb him under Hill Sub-Cadre Rules framed by the U.P. Jal Nigam prior to the creation of Uttaranchal Pey Jal Nigam.

2. According to the petitioner, he had exercised his option to be the member of Hill Sub-Cadre Rules framed by the U.P. Jal Nigam and that option was pending. This Court disposed of the writ petition giving a direction to Uttaranchal Pey Jal Nigam to decide the matter of absorption of the petitioner as the petitioner claimed similarity with the petitioner of Writ Petition No. 860 of 2001 (S/B) in which a Division Bench had given such a direction. Thereafter, Review Petition No. 46 of 2005 was filed by the respondents stating that the case of the petitioner was not similar to that of petitioner in Writ Petition No. 860 of 2001 (S/B), as the present petitioner was posted at

Bareilly in the U.P. Jal Nigam and therefore, this Court had no jurisdiction in the present case to issue such direction, as the petition could not be entertained on account of territorial jurisdiction.

3. Thus the mandamus issued by this Court suffered from error of jurisdiction. The Division Bench of this Court vide order dated 21.10.2005 has reviewed and recalled the judgment dated 25.07.2005. The Division Bench has noted that the petitioner is posted at Bareilly and he does not dispute this fact. The relevant para of the order dated 21.10.2005 is reproduced as under:

“Learned counsel for the writ petitioner does not dispute that the petitioner is working with U.P. Jal Nigam at Bareilly and that he is not working with Uttaranchal Pey Jal Nigam. In view of the above submission, it is clear that the case of the petitioner in Writ Petition No. 114 of 2005 is not similar to the case of the petitioner in Writ Petition No. 860 of 2001 (S/B). Therefore, the judgment dated 25.07.2005 is liable to be reviewed and recalled.”

4. In view of the aforesaid finding, we are not inclined to entertain this writ petition and the writ petition is dismissed accordingly. However, the petitioner is at liberty to pursue his representation.

(P.C. Verma, J.)
10.02.2006

(Rajeev Gupta, C.J.)
10.02.2006